



Office of the Attorney General
State of Texas

August 14, 1992

DAN MORALES
ATTORNEY GENERAL

Ms. Paula Kay Logan
Assistant General Counsel
Texas Department of Public Safety
P. O. Box 4087
Austin, Texas 78773-0001

OR92-488

Dear Ms. Logan:

You ask whether certain information is subject to required public disclosure under the Texas Open Records Act, article 6252-17a, V.T.C.S. Your request was assigned ID# 16618.

You have received a request for information relating to two traffic speeding arrests which occurred June 16, 1992, in Young and Jack counties. The requestor, who was arrested for speeding, seeks seven categories of information, including:

- a. all logs, notes, etc., in writing or on tape or any medium whatsoever identifying the activities of trooper Blanco and Wood on Tu 16 Jun 92
- b. the tape of the conversation that Blanco and I had when Blanco stopped me
- c. the tapes or copy thereof of all calls in or out by both Blanco and Wood during their duty period on Tu 16 Jun 92
- d. a copy of the traffic arrest logs and the identifying alleged violation for both trooper Blanco and Wood for the period 01 Jan 92 thru 16 Jun 92
- e. the same as in d above except for trooper Hooper

- f. a copy of the published and formal regulation or regulations in total which pertain to the use of radar and all associated procedures to be utilized and followed when on patrol
- g. a summary of the traffic citations issued by the Ft Worth TX division of the TX DPS during the period 01 Jan 92 thru 16 Jun 92

You claim that the Department of Public Safety (the "department") does not possess information responsive to request items c or d. Accordingly, you are not required under the Open Records Act to respond to request items c or d. *See* Open Records Decision No. 558 (1990) (governmental body need not provide information not in its possession). In addition, portions of the requested Radar Operations Manual are excepted from required public disclosure in accordance with a prior ruling of this office, Open Records Letter OR92-114 (1992). You have submitted to us for review a copy of the ticket issued the requestor (Exhibit B) and a video tape recording of the incident involving the requestor and Trooper Blanco (Exhibit C). You claim that this information is excepted from required public disclosure by sections 3(a)(3), 3(a)(8), and 3(a)(19) of the Open Records Act. You advise us that the remaining information will be made available to the requestor.

Previous determinations of this office resolve your request. Section 3(a)(8) of the act excepts

records of law enforcement agencies and prosecutors that deal with the detection, investigation, and prosecution of crime and the internal records and notations of such law enforcement agencies and prosecutors which are maintained for internal use in matters relating to law enforcement and prosecution.

Where an incident involving allegedly criminal activity is still under active investigation or prosecution, section 3(a)(8) may be invoked by any proper custodian of information that relates to the incident. Open Records Decision No. 474 (1987) at 4-5. We understand that exhibits B and C relate to pending prosecution by the Young County attorney. Accordingly, we conclude that the portions of the requested information not already made public may be withheld under Open Records Act section 3(a)(8). As we resolve this matter under section 3(a)(8), we need not address the applicability of sections 3(a)(3) and 3(a)(19) at this time.

Because case law and prior published open records decisions resolve your request, we are resolving this matter with this informal letter ruling rather than with a published open records decision. If you have questions about this ruling, please refer to OR92-488.

Yours very truly,

A handwritten signature in cursive script, reading "Kimberly K. Oltrogge", followed by a horizontal line.

Kimberly K. Oltrogge
Assistant Attorney General
Opinion Committee

KKO/GCK/lmm

Ref.: ID# 16618
ID# 16660
ID# 16746

cc: Mr. George S. Robertson
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